

PROFESSIONAL SERVICES AGREEMENT

For the Monitoring of Facilities and Reserve Fund Study of the
Paradise Valley Maintenance and Monitoring District

THIS AGREEMENT is made at Fairfield, California, as of January 9, 2018, by and between the PARADISE VALLEY MAINTENANCE AND MONITORING DISTRICT, a geologic hazard abatement district created pursuant to California Public Resources Code Section 26500, et seq., (the "PVMMD") and ENGEO Incorporated ("CONSULTANT"), who agree as follows:

1) SERVICES. Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide to the PVMMD the services described in Exhibit "A," which consists of the proposal submitted by CONSULTANT. CONSULTANT shall provide said services at the time, place, and in the manner specified in Exhibit "A." The PVMMD wishes to reserve the second site monitoring until after the completion of repairs to the district facilities.

2) PAYMENT. PVMMD shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement. CONSULTANT shall submit all billings for said services to the PVMMD in the manner specified in Exhibit "B."

3) FACILITIES AND EQUIPMENT. CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.

4) GENERAL PROVISIONS. The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control.

5) INSURANCE REQUIREMENTS. The insurance requirements set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.

6) EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

7) TERM. This agreement shall be in effect through December 31, 2018.

EXECUTED as of the day first above-stated.

Paradise Valley Maintenance and Monitoring District

By: 
85 GHAD Manager

ENGEO Incorporated

By: 
Macy Tong



EXHIBIT "A"

GEOTECHNICAL
ENVIRONMENTAL
WATER RESOURCES
CONSTRUCTION SERVICES

Project No.
5698.000.000

July 13, 2017

Ms. Peri Dean
City of Fairfield
Department of Public Works
1000 Webster Street
Fairfield, CA 94533-4883

Subject: Paradise Valley Geologic Maintenance and Monitoring District
Fairfield, California

PROPOSAL FOR GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) MONITORING AND RESERVE FUND STUDY

- References:
1. ENGEO; Plan of Control for Paradise Valley Areas "I", "K", and "L" Geologic Maintenance and Monitoring District, Fairfield, California; July 22, 2010; Project No. 5698.100.101.
 2. ENGEO; Open Space Management Plan, Paradise Valley, Fairfield, California; March 7, 2008; Project No. 5698.100.101.
 3. ENGEO; Monitoring Report, Paradise Valley Geologic Maintenance and Monitoring District, Fairfield, California; February 15, 2013; Project No. 5698.000.000.

Dear Ms. Dean:

As requested, ENGEO is pleased to provide the following fee estimate for observation of the open space areas within Areas "I", "K", and "L" of the Paradise Valley Geologic Maintenance and Monitoring District (GMMD) and preparation of a reserve fund study. The monitoring events are intended to satisfy recommendations in the referenced Plan of Control and Open Space Management Plan. Our most recent site-monitoring event was completed in 2013 (Reference 3). As recommended in the Plan of Control, two monitoring events should be scheduled annually.

Based on the GHAD Plan of Control, the overall site observation monitoring events will include:

- Sedimentation basins "A", "C-D", and "I".
- Three deflection walls with berms and riprap aprons.
- Maintenance roads.
- Concrete-lined drainage ditches.
- A review and check of the subsurface drain outlets.
- Storm drain inlets, outfalls and pipelines within the open space area.
- A geologic reconnaissance of the site slopes for indications of erosion or slope failure.
- Photographing significant areas for documentation purposes.

- Preparation of a letter report, summarizing our findings regarding observed slope movements, areas erosion, or significant ditch cracking or shifting. Depending on the findings of our site observations, the report may include recommendations for additional monitoring, exploration, or mitigation of observed problem areas.

After completion of the first site-monitoring event, a reserve study will be developed based on the levels of expenditure expected to address future maintenance responsibilities, and to accumulate the appropriate long-term reserves to address larger geologic events. As part of the study, we will review the initial Engineer's Report developed for the GMMD, income, expenditures, and the existing reserve.

We propose to perform the two monitoring events and prepare a reserve study for a total fee of **\$11,200**.

- Site Monitoring (\$3,500 Per Event) \$7,000
- Preparation of a Reserve Study \$4,200
- TOTAL \$11,200**

We expect that our site monitoring services will commence within one week following your authorization. The reserve study will be completed about three to four weeks thereafter. Upon completion of our study, we will summarize our findings in a written report. If this schedule does not meet your needs, please notify us and we can attempt to modify the schedule duration.

ENGEO's liability for damage due to professional negligence, acts, errors, omissions, breach of contract and consequential damages will be limited by client to an amount not to exceed an aggregate limit of twenty five thousand dollars (\$25,000) or ENGEO's fee, whichever is greater, regardless of the legal theory under which such liability is imposed

We look forward to working with you on the site monitoring events and reserve study. If you are in agreement with the scope of services and fee, please issue a Consultant Services Agreement as our formal authorization to proceed with the above services. ***Work will not commence without prior receipt of an executed agreement.***

If you have any questions, please do not hesitate to contact us.

Sincerely,

ENGEO Incorporated


Haley Trindle



Eric Harrell
Associate Geologist

EXHIBIT "B"

PAYMENT

1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed \$11,200.

2) The initial payment shall be made to CONSULTANT for the first site monitoring, the monitoring report and reserve study. CONSULTANT shall submit a monthly invoice to the Paradise Valley Maintenance and Monitoring District, City of Fairfield, 1000 Webster Street, Fairfield, CA 94533; Attn: Peri Dean and payment shall be within 30 days of receipt of a proper invoice.

Payment for the second site monitoring shall be made within 30 days after the PVMMMD receives the monitoring letter and upon the receipt of a proper invoice.

3) Any additional meetings or work required beyond that set forth in Exhibit "A" shall be mutually agreed to in writing or email by the PVMMMD and CONSULTANT, and shall be billed on a time and materials basis to the PVMMMD.

EXHIBIT "C"

GENERAL PROVISIONS

1) INDEPENDENT CONSULTANT. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of PVMMMD. PVMMMD shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, PVMMMD shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

2) LICENSES; PERMITS; ETC. CONSULTANT represents to PVMMMD that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT's profession. CONSULTANT represents to PVMMMD that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT's obligations pursuant to this Agreement. CONSULTANT shall adhere to the Schedule of Activities as described in their Executive Summary.

4) CONSULTANT NOT AN AGENT. Except as PVMMMD may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of PVMMMD in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind PVMMMD to any obligation whatsoever.

5) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that PVMMMD, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from PVMMMD of the desire of PVMMMD for the removal of such person or persons.

7) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. All products which CONSULTANT delivers to PVMMMD pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT's profession. PVMMMD shall be the judge as to whether the product of the CONSULTANT is satisfactory.

8) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by the PVMMMD at its discretion upon written notification to CONSULTANT. CONSULTANT is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and incomplete products up to the date of receipt of written notice to cease work shall become the property of PVMMMD.

9) PRODUCTS OF CONSULTING. All products of the CONSULTANT provided under this Agreement shall be the property of the PVMMMD.

10) INDEMNIFY AND HOLD HARMLESS.

a) If AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and CONSULTANT is a design professional, as defined in California Civil Code § 2782.8(c)(2), to the fullest extent allowed by law, CONSULTANT shall hold harmless, defend and indemnify the PVMMMD, its officers, agents, employees, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, except where caused by the active negligence, sole negligence, or willful misconduct of the PVMMMD. CONSULTANT's aggregate professional liability hereunder shall be limited by PVMMMD to \$1,000,000.

b) If AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or CONSULTANT is not a design professional as defined in subsection (a) above, to the fullest extent allowed by law, CONSULTANT shall indemnify, defend, and hold harmless the PVMMMD, its officers, agents, employees and volunteers from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the PVMMMD, its officers, agents, employees or volunteers.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

CONSULTANT'S responsibility for such defense and indemnity shall survive termination or completion of this agreement for the full period of time allowed by law.

11)PROHIBITED INTERESTS. No employee of the PVMMMD shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the PVMMMD if this provision is violated.

12)LOCAL EMPLOYMENT POLICY. The PVMMMD desires wherever possible, to hire qualified local residents to work on PVMMMD projects. Local resident is defined as a person who resides in Solano County. The PVMMMD encourages an active affirmative action program on the part of its contractors, consultants, and developers. When local projects require, subcontractors, contractors, consultants and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked, to provide no more frequently than monthly, a report which lists the employee's name, job class, hours worked, salary paid, city of residence, and ethnic origin.

13)CONSULTANT NOT A PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §§ 87200 et seq. CONSULTANT conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the PVMMMD or any PVMMMD official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any PVMMMD decision beyond these conclusions, advice, recommendation, or counsel.

14)EMPLOYMENT DEVELOPMENT DEPARTMENT REPORTING REQUIREMENTS. When the PVMMMD executes an agreement for or makes payment to CONSULTANT in the amount of \$600 (six hundred dollars) or more in any one calendar year, CONSULTANT shall provide the following information to PVMMMD to comply with Employment Development Department (EDD) reporting requirements:

a) Whether CONSULTANT is doing business as a sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation, non-profit corporation or other form of organization.

b) If CONSULTANT is doing business as a sole proprietorship, CONSULTANT shall provide the full name, address and social security number or federal tax identification number of the sole proprietor.

c) If CONSULTANT is doing business as other than a sole proprietorship, CONSULTANT shall provide CONSULTANT'S federal tax identification number.

EXHIBIT "D"

INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

1) MINIMUM SCOPE AND LIMITS OF INSURANCE

a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b) Automobile Liability coverage (Form CA 00 01 with Code 1 – any auto) with minimum limits of \$1,000,000 per accident for bodily injury and property damage.

c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance, each in the amount of \$1,000,000 per accident for bodily injury or disease.

2) INDUSTRY SPECIFIC COVERAGES

If checked below, the following insurance is also required.

☒ Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of \$1,000,000 per occurrence.

☐ Pollution Liability Insurance in the minimum amount of \$1,000,000 per occurrence

☐ Garage Keepers Insurance in the minimum amount of \$1,000,000 per occurrence

☐ Fidelity / Crime / Dishonesty Bond in the minimum amount of \$_____

☐ MCS-90 Endorsement to Business Automobile insurance for transportation of hazardous materials and pollutants

☐ Builder's Risk / Course of Construction Insurance in the minimum amount of \$_____.

3) INSURANCE PROVISIONS

a) DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by the PVMMD. At the option of the PVMMD, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the PVMMD, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. CONSULTANT's self-insured retention for Professional Liability is \$150,000.

b) The general and automobile liability policies (and if applicable, pollution liability, garage keepers liability and builder's risk policies) are to contain, or be endorsed to contain, the following provisions:

- i) The PVMMD, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; and automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the PVMMD, its officers, officials, employees or volunteers.
- ii) For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the PVMMD, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the PVMMD, its officers, officials, employees or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.
- iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the PVMMD, its officers, officials, employees or volunteers.
- iv) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the PVMMD.
- vi) The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONSULTANT'S policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the PVMMD.

d) VERIFICATION OF COVERAGE. CONSULTANT shall furnish the PVMMD with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the PVMMD or on forms equivalent to CG 20 10 11 85 subject to PVMMD approval. All insurance certificates and endorsements are to be received and approved by the PVMMD before work commences. At the request of the PVMMD, CONSULTANT shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

e) SUB-CONTRACTORS. CONSULTANT shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of CONSULTANT to verify existence of sub-contractor's insurance shall not relieve CONSULTANT from any claim arising from sub-contractors work on behalf of CONSULTANT.